SINGLE BENCH

(2) (4)

CF 1200/-

IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION No. (C) 4269 /2006

PETITIONER : Shiv Kumar Lahre, Son of Bhukhau age about 35 years, resident of Village - Lalpur, Police Station-Lalpur, Tahasil-Lormi, District-Bilaspur (C.G.)

P.R. No. 4325/06
Presented by Shri Vivek Shrivastava
dated 21/8/06

VERSUS

RESPONDENTS

1. State of Chhattisgarh through Secretary, Department of Panchayat & Social Welfare, D.K.S. Bhawan, Raipur (C.G.).
2. The Collector, Bilaspur (C.G.).
3. The Village Panchayat, Lalpur, Tahasil-Lormi, District Bilaspur, through its Sarpanch.
4. Phoolchand, Son of Tirith Ram, age 65 years, resident of Village-Lalpur, Police Station-Lalpur, Tahasil-Lormi, District-Bilaspur (C.G.).

3776/06

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8-8-06
CLERK to A. G. BILASPUR

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT OF MANDAMUS, CERTIORARY, PROHIBITION, QUO WARRANTO AND ANY OTHER WRIT/ORDER/DIRECTION ON THE SAME NATURE IN THE CIRCUMSTCANCES OF THE CASE.

(37)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ...W.P.4269/... **सन्** 2006

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

14-8-2006

Mr. Praveen Das, counsel for the petitioner.

Mr. N.K. Agrawal, Deputy Advocate General for the State/respondents No.1 & 2, on advance copy.

The petitioner, who is the resident of Village: Lalpur, Police Station: Lalpur, Tehsil: Lormi, District: Bilaspur, has filed this writ petition under Article 226/227 of the Constitution of India, for issuance of a writ of quo warranto on the ground that the post of Sarpanch of Village: Lalpur has been reserved for the persons belonging to Scheduled Tribe. In the elections held for the post of Sarpanch in the year 2005, respondent No.4 filed his nomination papers for contesting on the said post and as there is no other person who filed nomination for the said post, therefore, respondent No.4 was elected unopposed.

Grievance of the petitioner is that even though the post of Sarpanch of Village: Lalpur is reserved for the persons belonging to the Scheduled Tribe, respondent No.4 herein who is not a Scheduled Tribe, in fact is a Scheduled Caste, by submitting forged certificate and showing himself as a Scheduled Tribe has been successful to be elected as Sarpanch. In support of the writ petition, certain documents such as school leaving certificate, certificate regarding caste of son of respondent No.4 as also the sale deed executed by respondent No.4 and his father have been filed which show that respondent No.4 belongs to Satnami caste. Therefore, respondent No.4 is not in a position to hold the post of Sarpanch being a Scheduled Caste. The petitioner made a complaint in the Police Station, but the Police have not taken any action.

I have heard learned counsel for the parties.

P.T.O.

(38)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.4269/ **सन्** 2006

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Appropriate authority in the matter is respondent No.2. Before passing any order, the first requirement is to verify and ascertain as to whether respondent No.4 does not belong to ST caste, which requires investigation in the light of the judgment of the Apex Court in the matter of **Kumari Madhuri Patil and another v. Addl. Commissioner, Tribal Development and others** reported in **AIR 1995 SC 94**. Therefore, it is appropriate that in the first instance, the petitioner should make a representation/complaint before respondent No.2 bringing this anomaly to the notice of respondent No.2.

Accordingly, the petitioner is allowed to make a representation/ complaint before respondent No.2 within a period of 15 days from today annexing a copy of this writ petition along with its annexures and in turn, respondent No.2 shall get the matter enquired from the caste Scrutiny Committee constituted in pursuance of the judgment of the Apex Court in Kumari Madhuri Patil's case about the caste of respondent No.4 and thereafter pass appropriate order, in accordance with law. As respondent No.4 is holding the post of Sarpanch, it is expedient and in the interest of justice that the enquiry is conducted expeditiously and appropriate step is taken in accordance with law within a period of three months from the date of receipt of the representation/complaint. Of course, the enquiry should be conducted and order should be passed after affording proper opportunity to respondent No.4 and the petitioner as well.

With the directions aforesaid, the writ petition stands disposed of.

Consequently, M.(W.)P.No.3311/2006 also stands disposed of.

Parties are entitled for certified copy of this order.

Sd/-
L.C.Bhadoo
Judge

Soma

P.T.O.

18.8.06 Ram 22.8.06